



DEPARTMENT OF THE ARMY
DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER & PRESIDIO OF MONTEREY
INSTALLATION LEGAL OFFICE
1336 PLUMMER STREET, BUILDING 275
MONTEREY, CA 93944-3327

REPLY TO
ATTENTION OF

ATZP-JA

26 July 2004

MEMORANDUM FOR ALL

SUBJECT: Requests for Redress Under Article 138, UCMJ

1. **PURPOSE:** To inform commanders and officers of the process for redress under Article 138, UCMJ, and to provide basic information on handling complaints under Article 138, UCMJ.

2. **REFERENCE:** AR 27-10, Military Justice (6 September 2002), Chapter 20, "Complaints Under Article 138, UCMJ."

4. DISCUSSION:

a. Article 138 is a formal procedure for complaints against any commander in the chain of command. It is only available if there is no other statutory or regulatory avenue of appeal. Examples of actions for which Article 138 is inappropriate can be found at AR 27-10, paragraph 20-5(b).

b. An Article 138 complaint involves the following steps:

(1) A Soldier files a written request for redress with the commander concerned, who is designated as a "respondent." Commander/respondent has 15 days to reply.

(2) If the commander denies redress, the Soldier submits Article 138 complaint to his immediate superior commissioned officer. Complaint must be submitted within 90 days of the alleged wrong-doing. The time a request for redress is pending does not count towards the 90 day time period.

(3) The complaint is processed through the chain of command to the officer exercising general court-martial jurisdiction over the respondent at the time of the alleged wrong-doing. Anyone in the chain of command may grant redress.

(4) General Court-Martial Convening Authority (GCMCA) will examine the complaint. The type of examination conducted by the GCMCA is discretionary. The GCMCA may delegate the examination of the complaint. Examinations delegated will be conducted in accordance with AR 15-6.

(5) The GCMCA will personally act on the complaint. The GCMCA will forward the complaint to HQDA, whether or not redress is granted.

ATZP-JA

SUBJECT: Requests for Redress Under Article 138, UCMJ

c. Commanders should not discuss the specific facts of any case with a soldier who is considering Article 138 procedures. This is a statutory right, and you should refer the soldier to legal counsel as discussed above.

d. Soldiers may seek legal counsel when deciding whether to pursue an Article 138 complaint. If the matter involves a violation of the UCMJ, the soldier may seek assistance from the Trial Defense Service (appointment may be made by contacting the Legal Assistance Office at 242-4758).

5. POC for this memorandum is CPT Young J. Park at (831)242-6402.